

## CHAPTER 13.16

### Storm Sewers

#### 13.16.010 Definitions.

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this Section:

*Contaminated water* shall mean that water which contains constituents at concentrations which could cause, directly or indirectly, impairment of human health or the environment, and which would not be present in such concentrations in a natural state. This includes any water contaminated from industrial processes, land use activities, development or other man-induced practices.

*Director* shall mean the duly appointed Director of Public Works/Planning or the designated representative of such Director of Public Works/Planning.

*Major stormwater system* means all stormwater facilities identified in the master drainage plan that facilitate the conveyance of stormwater runoff on a basin-wide or regional basis.

*Minor stormwater system* means all stormwater facilities used for the conveyance, control or storage of storm runoff of local benefit only. These facilities generally direct storm runoff to major stormwater systems.

*Nonstormwater runoff* shall mean flow arising from man-induced activities, including but not limited to industrial processes, domestic irrigation, subdrains, groundwater wells and municipal water supply systems.

*On-site detention* shall mean stormwater detention which is not part of a major stormwater system and which is sized for the benefit of specified tributary area, part or all of which is being subdivided. Such on-site detention shall be located within an easement or parcel dedicated to and accepted by the City for drainage purposes.

*Stormwater facilities* means any one (1) or more of various devices used in the collection, treatment or disposition of storm, flood or surface drainage waters, including manmade structures and natural watercourses and/or floodplains for the conveyance of runoff, such as detention or retention areas, berms, swales, improved watercourses, channels, bridges, gulches, streams, rivers, gullies, flumes, culverts, gutters, pumping stations, pipes, ditches, siphons, catch basins, inlets and other equipment and appurtenances and all extensions, improvements, remodeling, additions and alterations thereof; and any and all rights or interests in such stormwater facilities.

*Stormwater runoff* means that part of snowfall, rainfall or other stormwater which is not absorbed, transpired, evaporated or left in surface depressions, and which then flows controlled or uncontrolled into a watercourse or body of water.

*Subdivider* or *developer* shall mean any person, partnership, joint venture, association or corporation who shall participate as owner, promoter, developer or sales agent in the planning, platting, development, promotion, sale and lease of a subdivision, planned unit development, lot or building expansion.

*Subdivision* shall mean the platting of a lot or the division of a lot, tract or parcel of land into two (2) or more lots, plots or sites.

*Suitable treatment* shall mean that treatment process authorized by and undertaken pursuant to an appropriate permits to discharge treated water under the State of Colorado Department of Public Health and Environment's, Colorado Discharge Permit System ("CPDS"), and which the Director has approved the discharge thereof.

*Utility* or *Enterprise*, as used in this Chapter, shall mean the Stormwater Utility of the City of Evans, Colorado. (Ord. 1116-98, 1998)

#### **13.16.020 Establishment of Storm Water Utilities Enterprise.**

A. The City Council hereby recognizes and confirms the operation of the Municipal Storm Water System as an "Enterprise" within the meaning of Section 20 of Article X of the Colorado Constitution.

B. The City Council hereby formally establishes the City of Evans, Colorado, Storm Water Utilities Enterprise (the "Enterprise"), pursuant to the Act, for the purpose of continuing the operation of the Municipal Storm Water System as a Storm Water Activity Enterprise under the Act and as an "Enterprise" within the meaning of Section 20 of Article X of the Colorado Constitution. (Ord. 1116-98, 1998)

#### **13.16.030 City Council as governing body – Enterprise funds.**

A. The City Council hereby designates itself as the governing body of the Enterprise, pursuant to the Act.

B. To the extent it deems necessary, the governing body of the Enterprise shall exercise the City's legal authority relating to the Municipal Storm Water System, but shall not levy a tax, which is subject to Section 20(4) of Article X of the State Constitution.

C. The Enterprise shall have no power to impose or levy any tax.

D. Funds of the Enterprise and funds of the City may be commingled for purposes of investment, so long as accurate records are kept of the amount of such funds allocable to the Enterprise and to the City.

E. All action (not inconsistent with the provisions of this Section) heretofore taken by the City Council or by the officers and employees of the City directed toward the operation of the Municipal Storm Water System as an "Enterprise" under Section 20 of Article X of the Colorado Constitution is hereby ratified, approved and confirmed. (Ord. 1116-98, 1998)

#### **13.16.040 Declaration of purpose.**

The City Council hereby finds, determines and declares the necessity of providing stormwater facilities for the drainage and control of flood and surface waters within the City, including areas to be subdivided and developed, in order that storm and surface waters may be properly drained and controlled, pollution may be reduced and the environment enhanced and that the health, property, safety and welfare of the City and its inhabitants may be safeguarded and protected. All revenues and expenditures of the City or of the enterprise relating to the stormwater system shall be considered revenues and expenditures of the Enterprise. (Ord. 1116-98, 1998)

#### **13.16.050 Flood insurance.**

Floods from stormwater runoff may occasionally occur which exceed the capacity of stormwater facilities constructed and maintained by funds made available under this Chapter. This Chapter does not imply that property liable for the fees and charges established in this Chapter will always be free from stormwater flooding or flood damage. This Chapter does not purport to reduce the need or the necessity for the owner obtaining flood insurance. (Ord. 1116-98, 1998)

#### **13.16.060 Water and Sewer Board.**

The Water and Sewer Board created in Chapter 2.24 of this Code shall assist in administering this Chapter. (Ord. 1116-98, 1998)

#### **13.16.070 Administration to be by Director.**

Director = of the Water and Sewer Board?

The administration of the provisions of this Chapter is hereby vested in and shall be exercised by the Director who may prescribe forms and rules and regulations in conformity with this Chapter or for the ascertainment, computation and collection of the fees and charges imposed in this Chapter and for the proper administration and enforcement. The Director may delegate the administration of this Chapter, or any part thereof, subject to the limitations of the Charter and Code to duly qualified deputies and agents of the Director. (Ord. 1116-98, 1998)

#### **13.16.080 Fees – Developments inside City limits.**

For the purpose of providing storm sewers, systems and additions to present storm sewer systems, each builder or developer of an undeveloped lot or fraction thereof inside the City limits shall pay fees as adopted by resolution. (Ord. 1116-98, 1998)

#### **13.16.090 Stormwater basin fees.**

A. After adopting the stormwater basins, as presented in the Comprehensive Drainage Study, and after receiving a report from the Water and Sewer Board on a particular stormwater basin, the City Council may establish by resolution, stormwater fees to be paid by the owners of property in the stormwater basin. Such stormwater fees shall be established in amounts which will provide sufficient funds, proportionately calculated and assessed, to construct the facilities which need to be installed in the basin. The amount of the fees assessed against individual properties and the method of collecting the fees shall be established by the resolution.

B. The City may require the payment of the stormwater basin fees as a condition of issuance of a full building permit, or if no building permit is required, upon commencement of construction. The stormwater basin fee shall be payable at any time as determined by City Council and the Water and Sewer Board after the approval of the plat of a subdivision or, in the case of unplatted property, upon the issuance of a building permit.

C. Any fees not otherwise collected may be collected through special assessments levied in a local assessment district created pursuant to Chapter 12.12 of this Code. Such fee shall be established by resolution. (Ord. 1116-98, 1998)

#### **13.16.100 Stormwater utility fee.**

There is hereby imposed on each and every lot or parcel of land within the City and the owners thereof a stormwater utility fee. This fee is deemed reasonable and is necessary to pay for the operation, maintenance, administration and routine functions of the existing City stormwater facilities and the operation, maintenance and administration of such future stormwater facilities as may be established within the City and to pay for the design, right-of-way acquisition and construction or reconstruction of major and minor stormwater facilities to the extent that such costs have been determined to be the responsibility of developed properties. All of the proceeds of this fee are deemed to be in payment for use of the City stormwater system by the real property on and with respect to which the charge is imposed on the owners. (Ord. 1116-98, 1998)

#### **13.16.110 Reestablishment of stormwater fees.**

The City Council may by resolution change the amount of the stormwater utility or basin fees for a stormwater basin based upon revised estimates of the cost of installing facilities in the basin. Any change in the amount of the stormwater basin fee shall be effective only as to properties in a stormwater basin which have not paid in full the stormwater basin fee assessed against the property. After collection of the stormwater basin fee is completed as to particular property, the amount of the fee shall not be increased. (Ord. 1116-98, 1998)

#### **13.16.120 Billing for stormwater utility fee.**

The stormwater utility fee shall be billed and collected with the regularly scheduled utility bill for those lots or parcels of land within the City, billed and collected separately as stormwater utility fees for those lots or parcels of land and owners thereof not utilizing other City utilities. All such bills for stormwater utility fees shall be rendered with the regularly scheduled utility bill by the Finance Director and shall become due and payable in accordance with the rules and regulations of the City pertaining to the collection of utility fees. The Finance Director shall place all such fees collected into the storm drainage fund to be deposited and separately kept as a fund to be used only for the purposes stated herein. (Ord. 1116-98, 1998)

#### **13.16.130 Certain properties exempt from stormwater utility fee.**

The stormwater utility fee shall not be collected in connection with any City street, road or alley, or any railroad right-of-way used exclusively for trackage and related safety appurtenances. (Ord. 1116-98, 1998)

#### **13.16.140 Enforcement.**

Any charge due hereunder which shall not be paid when due may be recovered in an action at law by the City. In addition to any other remedies or penalties provided by this Chapter or the Code, failure of any user of City utilities within the City to pay the charges promptly when due shall subject such user to discontinuance of such utility services and the City Manager is hereby empowered and directed to enforce this provision as to any and all delinquent users. The employees of the City shall, at all reasonable times, have access to any premises served by the City for inspection, repair or the enforcement of the provisions of this Chapter. (Ord. 1116-98, 1998)

#### **13.16.150 Unpaid charges to be a lien.**

All fees made pursuant to this Chapter shall be a lien upon the property to which such fee is associated from the date the fee becomes due until such fee is paid. The owner of record of every building, premises, lot or house shall be obligated to pay the fee for all service provided for the premises which obligation may be enforced by the City by action at law or suit to enforce the lien. In the case that a tenant in possession of any premises or buildings shall pay the charges, it shall relieve the landowner from such obligation and lien but the City shall not be required to look to any person whatsoever other than the owner for the payment of such charges. No changes of ownership or occupation shall affect the application of this Chapter and the failure of any owner to learn that he or she purchased property against which a lien for stormwater utility fees exists shall in no way affect the responsibility for such payment. Any delinquent amount may be enforced by assessment upon the property and premises served and certification to the County Treasurer for collection under and pursuant to the authority and procedure provided in Chapter 12.12 of this Code. (Ord. 1116-98, 1998)

#### **13.16.160 Disposition of fees and charges.**

The fees and charges paid and collected by virtue of this Chapter shall not be used for general or other governmental or proprietary purposes of the City, except to pay for the equitable share of the costs of accounting, management and government thereof. Other than as described above, the fees and charges shall be used solely to pay for the costs of operation, repair, maintenance, improvements, renewal, replacement, reconstruction, design, right-of-way acquisition and construction of public stormwater facilities and costs incidental thereto. If there are amounts in the fund in excess of the amount required to satisfy the purpose of the fund, the City Council may by ordinance authorize the transfer of such excess amount to any other fund of the City. (Ord. 1116-98, 1998)

#### **13.16.170 Property owners to provide stormwater facilities.**

The City Council further finds, determines and declares under all attendant circumstances that the owners of property within stormwater basins in the City should provide the stormwater facilities necessary for the drainage and control of flood and surface waters within stormwater basins and should provide the facilities required to convey such waters from the stormwater basin to major drainage ways. Therefore, the cost of installing stormwater facilities in a stormwater basin should be assessed in whole or in part against the lands in the stormwater basin. The City Council further finds, determines and declares that all real property within a stormwater basin will be benefitted by the installation of stormwater facilities within the basin since the development of elevated lands increases the runoff of stormwaters from such lands causing increased amounts of stormwater to flow onto adjoining lands of lower elevation. The owner of such elevated land has a duty to prevent such increased runoff from doing damage to other lands, which duty will be met if adequate stormwater facilities are installed in the stormwater basin. To the extent possible, the charges assessed against lands in a stormwater basin for construction of stormwater facilities should take into account the amount of stormwater which will run off such lands after they have been developed. (Ord. 1116-98, 1998)

#### **13.16.180 Establishment of stormwater basins.**

After receiving a report and recommendation from the Director, the Water and Sewer Board shall officially adopt a stormwater map which is on file with the City delineating the boundaries of the stormwater basin in the City and in areas which may be annexed. Such map may also indicate existing development of properties within the basin, zoning of properties and such other information as may be determined to be advisable. Such map shall after adoption serve as official designation of the respective

stormwater basins of the City, but such map may be revised from time to time to conform with existing conditions. (Ord. 1116-98, 1998)

#### **13.16.190 Comprehensive Study.**

A. The City's most current Comprehensive Drainage Study is hereby adopted by reference and declared to be a part of this Chapter.

B. The Comprehensive Drainage Study is on file in the office of the City Clerk. The City may adopt additional master drainage plans by reference and declare them to be a part of this Chapter and copies of such master drainage plans shall be on file in the office of the City Clerk. The plans may be modified by the Director, for the sole purpose of enhancing such plan, provided that such enhancement does not diminish the general purpose and specific objectives of the adopted plan and does not diminish the ability of the plan to address the disposition of stormwater runoff in the applicable basin, and if modified, the modifications shall be filed in the office of the City Clerk. (Ord. 1116-98, 1998)

#### **13.16.200 Stormwater facilities required for subdivisions.**

Prior to the final approval of the plat of any subdivision, or prior to commencement of construction upon any lot or parcel of land for which a drainage report and construction plan for the installation of stormwater facilities has not been prepared and approved by the City, the owners of the property being subdivided or upon which construction is being commenced shall, at such owners' cost, prepare a detailed drainage report and construction plans for the installation of all stormwater facilities required for such subdivision or lot, including any off-site facilities required to convey stormwater to existing drains, channels, streams, detention ponds or to other points, all in conformity with the Comprehensive Drainage Study of the City. The Director shall review such reports, plans and cost estimates; and after approval of the same, the plat of the subdivision or the building permit, if applicable, may be approved subject to the City's being furnished with acceptable assurance that such facilities will be constructed and installed as indicated approved. (Ord. 1116-98, 1998)

#### **13.16.210 City to maintain stormwater facilities; exception.**

The City shall maintain all accepted public stormwater facilities located within City-owned land, City rights-of-way and City easements and may maintain other accepted public stormwater facilities located within or adjacent to the City. Such public facilities include those facilities which have been designed and constructed expressly for use by the general public. Such public stormwater facilities do not include facilities not accepted by the City for maintenance. For purposes of this Section, *for use by the general public* means direct use and benefit of the general public. (Ord. 1116-98, 1998)

#### **13.16.220 Additional fees authorized when.**

Sections 13.16.010 and 13.16.020 of this Chapter establish the basic drainage fee for all undeveloped areas. The City Council may by resolution determine, as each subdivision or area is formed, that additional fees, if any, shall be charged over and above the fees stated in this Chapter, which shall be based upon the actual or estimated increase costs above such stated fees in the drainage requirements for the district or area and/or upon the existing overall drainage system. (Ord. 1116-98, 1998)